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OFFICE OF PETITIONS

In re Application of
Rajendra K. Shah, et al.
Application No. 10/707,524
Filed: December 19, 2003
Attorney Docket No. 10833

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ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 17, 2005, to revive the above-identified application.

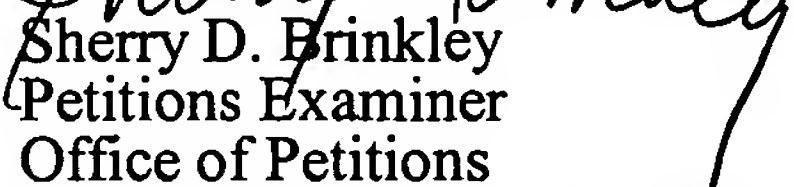
The petition is **GRANTED**.

The application became abandoned for a failure to timely respond to a Notice to File Corrected Application Papers (Notice) mailed August 9, 2004. The Notice required replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121. On May 10, 2005, a Notice of Abandonment was mailed. For some unknown reason, the Notice of Abandonment was withdrawn in a communication mailed June 14, 2005. On May 17, 2005, the present petition was filed including, *inter alia*, the replacement drawings and a 5-month petition for extension of time.

Extensions of time under 37 CFR 1.136 are available only if asked for "prior to or with the response." In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response has expired, i.e., October 10, 2004. Therefore, no extension of time fees are due on a petition for revival. In view thereof, the \$2,160 extension of time fee submitted with the petition is unnecessary and will be refunded to petitioner's deposit account as authorized.

The application is being referred to the Office of Initial Patent Examination (OIPE) for review of the drawings provided on May 17, 2005.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to OIPE processing should be directed to their hotline at (703) 308-1202.


Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy